

RAM

From: RAM  
Sent: Tuesday, September 12, 2006 1:11 PM  
To: 'Glenn Melchinger (gmelchinger@ahfi.com)'  
Cc: 'tanigawa@kghawaii.com'  
Subject: KG v. SS

Glenn -

In its May 13, 2005 response to Defendants OR Hotel LLC, et al. First Request for Admissions, etc., in response to Request for Admission No 31, SS-Japan and SS-USA state that they "admit that certain Maui real property was not transferred on [January 25, 2002] due to errors in the property descriptions provided by the title company that were used to create the deeds."

Since there is apparently no dispute that the "Property" (as defined in the First Amended Complaint in the Maui litigation) should have been conveyed by Sports Shinko (Pukalani) Co., Ltd. to KG Maui Development LLC with the other properties conveyed in the January 25, 2002 deed, is your client now willing to sign a correction deed and convey the "Property" to KG Maui Development LLC? KG have never received a response to Ted Pettit's earlier inquiries to this effect.

If your clients agree to convey the Property, the KG entities have no objection to the "Property" being subject to your clients' federal claims (to the same extent any of the conveyed lands are subject to the federal claims and without prejudice to the pending federal lis pendens expungement motion). This will allow the termination of the state court litigation and the resolution of the Maui land dispute consistent with your clients' earlier concession.

Regards,  
Bob

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EXHIBIT 3

Exhibit 35

EXHIBIT 3

10/5/2006

STATE OF HAWAII

KG HOLDINGS, LLC, a Hawaii  
limited liability company, and  
KG MAUI DEVELOPMENT, LLC, a  
Hawaii limited liability company,  
Plaintiffs,  
vs.  
SPORTS SHINKO (HAWAII) CO., LTD.,  
a Hawaii corporation and SPORTS  
SHINKO (PUKALANI) CO., LTD., a  
Hawaii corporation,  
Defendants.

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Civil 06-1-0223(3)

TRANSCRIPT OF PROCEEDINGS

before the HONORABLE Joseph E. Cardoza, Circuit Court  
Judge, presiding on Wednesday, October 18, 2006.

APPEARANCES:

ROBERT A. MARKS, Esq. Attorney for the Plaintiffs  
707 Richards St., Suite 728  
Honolulu, HI 96813

GLENN T. MELCHINGER, Esq. Attorney for the Defendants  
ASB TOWER  
1001 Bishop St., 18th Floor  
Honolulu, HI 96813

JAMES M. LINDSAY, RMR, CSR 304  
Official Court Reporter  
State of Hawaii

EXHIBIT K

1 We filed the summary judgment motion in this  
2 case and would like to argue it at the same time as the  
3 dispositive motion by the Sports Shinko parties for a very  
4 simple reason, and that is that the court has clear  
5 choices to make in this case. It should be heard at the  
6 same time for the reason that cross-dispositive motions  
7 are routinely heard together, and that is that the court  
8 has the widest array of options available.

9 I don't think there really is a scenario in  
10 which this case is one that needs to be tried. It seems  
11 to me that there's our summary judgment motion and there's  
12 Sports Shinko's motion to dismiss or for stay, and by  
13 having both motions queued up at the same time, your  
14 Honor, you are given a clear option of which way to  
15 proceed.

16 There is no dispute that the title to this  
17 Maui property is currently vested in Sports Shinko and the  
18 only reason that is so is due to a mistake of the parties.

19 It is hard to fathom why Sports Shinko even wants to  
20 litigate this case frankly in light of our proposal to  
21 make the property subject to the federal claims.

22 Title issues, your Honor, are the bread and  
23 butter of the circuit court's jurisdiction. This court  
24 has jurisdiction over the parties and over the subject  
25 matter. The dispute is fairly and properly before this

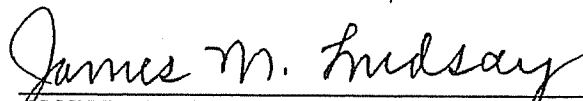
JAMES M. LINDSAY, RMR, CSR 304  
Official Court Reporter  
State of Hawaii

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C E R T I F I C A T E

I, JAMES M. LINDSAY, an Official Court Reporter  
of the Circuit Court of the Second Circuit, State of  
Hawaii, do hereby certify that the foregoing pages  
comprise a full, true and correct transcript of the  
proceedings had in connection with the above-entitled  
cause.

Dated this 19th day of October, 2006.

  
JAMES M. LINDSAY, RMR-CSR No. 304  
Official Court Reporter

JAMES M. LINDSAY, RMR, CSR 304  
Official Court Reporter  
State of Hawaii